

REGULAR MEETING AND PUBLIC HEARING  
OF THE FALLS CHURCH PLANNING COMMISSION  
SEPTEMBER 8, 2009  
Council Chamber

1. CALL TO ORDER: Chair Lawrence called the meeting to order at 7:50 p.m.

2. ROLL CALL:

Members Present:

Ms. Hockenberry  
Mr. Lawrence  
Mr. Meeks  
Ms. Rodgers  
Ms. Teates  
Mr. Wodiska

Member Absent:

Mr. Kearney

Administrative Staff Present:

Ms. Perry,  
Senior Planner

Chair Lawrence informed the commissioners Mr. Kearney had an unexpected emergency and would not be attending this evening's meeting.

3. ADOPTION OF AGENDA:

Ms. Teates made a motion, and Ms. Hockenberry seconded, to adopt the agenda.

Upon voice vote, the motion passed unanimously.

4. PLANNING COMMISSION REPORTS:

Chair Lawrence welcomed Ms. Perry back. Since Ms. Perry had been gone for most of August, Chair Lawrence suggested the commissioners hold their questions until the next meeting when Ms. Cotellessa returns.

Chair Lawrence noted their next meeting was September 21st, which he predicted would be a long night and would start at 6:45 p.m. At 7:30 there would be a ZOAC joint session with City Council. He needed three other commissioners to show up at 6:45 to ensure a quorum and there would be a feeling from tonight's hearing whether it would be controversial or not.

Chair Lawrence would not be able to attend the city tour on Thursday morning but noted Ms. Hockenberry would. Ms. Rodgers and Mr. Wodiska reported they had not received notice of the tour, only Ms. Hockenberry's response.

Chair Lawrence reported he had received information third hand through a City Council member that Falls Church Housing may not come back before them until the spring. They may have financing for the senior unit and they're trying to come back with something comprehensive, still not sure where the third building would fit in.

Ms. Hockenberry wanted to remind everybody about a few events occurring in the City: Taste of Falls Church Saturday, September 12th, from 10 a.m. to 4 p.m., and recycling also set for that morning, 9 a.m. to 1 p.m. Run for the Schools would take place on Sunday, September 13th, and Friday night was a home George Mason High

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School football game.

Ms. Teates added taking place with the Taste of Falls Church was the Fall Festival.

Mr. Wodiska announced this past week he finished his Virginia Planning certification and is now a certified commissioner.

5. RECEIPT OF PETITIONS: None.

6. PLANNING DIRECTOR'S REPORT:

Ms. Perry wanted to remind the commissioners October is National Community Planning month and when Ms. Cotellessa returned, she would talk to the commissioners about activities associated with that.

Chair Lawrence related on September 21st City Council will pass a resolution recognizing Planning Month.

Chair Lawrence informed the audience that Ms. Jill Ann Spence, the City arborist, left for Canada.

7. OLD BUSINESS: None.

8. NEW BUSINESS:

A. **Site Plan 20090407, West End Park, 1000 block of West Broad Street (RPC #51-216-077 and RPC #51-216-078)**

Ms. Perry reported the site plan for West End Park was on the agenda this evening and was originally advertised for the Planning Commission's consideration on the actual site plan. Ms. Perry advised the commissioners the application was not ready and staff was requesting additional time. The site plan was being led by Recreation and Parks. They had received several comments from staff and also met with the AAB recently and additional time was needed to incorporate the various comments.

Ms. Perry advised the commissioners since this was advertised for public hearing, the item must be opened for public comment. The date being requested was different than on the staff report and staff was requesting a date of October 19th.

The chair opened the item to the public. Hearing no response, the chair closed the item to the public.

Ms. Rodgers commented that there had been several meetings with the Recreation and Parks Commission and members of the neighborhood and there had been a lot of comments. She was looking forward to seeing the final application.

Ms. Rodgers moved, and Ms. Hockenberry seconded, to continue the public hearing of Site Plan Application 20090407 to October 19, 2009.

Upon voice vote, the motion passed unanimously.

B. **Application 20080767, Special Use Permit for a Bank Drive-Through at 1230 West Broad Street (U1488-08)**

Recommendation to the Board of Zoning Appeals

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Ms. Perry made a disclosure that her husband is a vice president for BB & T, and for the reasons stated more fully in her written disclosure which she provided to the Planning Commission and the City Clerk. She stated she could participate fairly, objectively and in the public interest.

Chair Lawrence asked to attach the full disclosure with the meeting minutes.

Ms. Perry reported the Special Use Permit was before the Planning Commission for a recommendation to the BZA to allow a drive-through bank. The applicant, BB & T, was proposing a development of a drive-through bank in the Falls Plaza Shopping Center in the 1200 block of West Broad Street. The proposed bank would be constructed at the site currently occupied by a vacant building, formerly Chicken Out.

The subject property is zoned B-1, Limited Business District. A bank is permitted by right in the B-1 District but a drive-through requires approval of Special Use Permit. One drive-through lane is being requested.

Staff reviewed the application and found that it generally complies with the criteria provided in the Code for drive-through special use permits. The use is appropriate for a shopping center. The application indicates the architectural style is compatible with the shopping center and surrounding uses.

Potential adverse impacts on the neighborhood are considered minimal given its location in a commercial district and along Broad Street. The proposed development is consistent with the Comprehensive Plan, by orienting the building to West Broad Street and strengthening pedestrian connections to, through, and within the shopping center site.

A clear delineation of the drive-through aisles is chiefly through pavement materials, pavement marking and signage, as is the minimizing of conflict between vehicular and pedestrian routes.

Although landscaping and associated requirements are reviewed and finalized as part of the site plan process, it has been identified that waivers would be required because two of the landscaping islands do not meet the size and dimensional requirements of the Code.

At this time the extent of the waivers do not appear extensive enough to impair further consideration of the special use permit, noting the waivers will be reviewed and decided at site plan.

Elements most critical to the special use permit have to do with the location of the ADA parking requirements as part of the parking requirements for this use, traffic circulation, traffic impact, and development conditions.

In summary, though detailed more in the staff report, there are two parking spaces located within 50 feet of Broad Street. The Code does not prohibit parking spaces in this area but has identified it as a potential traffic impact. Given the length of the drive aisle there, if there are any more than two cars stacking waiting for a vehicle to maneuver in and out of those spots, it could back up on Broad Street. Those two spots will be limited to only those who are eligible to use ADA spaces and they do not think the impact would be as severe as if they were fully available to all drivers.



While not a requirement and while staff has worked with the applicant to identify other locations, one has not been identified so this has been raised as an impact for the Planning Commission's consideration.

In terms of traffic circulation, staff worked with a traffic consultant to look at some analysis that was done on turn movements, maneuvering throughout the site as indicated on the layout plan that was received as part of the application.

The review indicated in summary that while there may be some additional width desirable at some point within the site, that the design meets all requirements.

In terms of Traffic Impact Analysis, there was a TIA conducted to analyze several intersections in the vicinity of the proposed development. The TIA indicated that the proposed development does not degrade the forecasted level of service beyond acceptable conditions except for one movement in one intersection. Therefore, staff found mitigation of this impact was warranted.

Staff worked with the applicant to identify a mitigation measure. On the plans it is known as the Route 7 and Gordon Road Plaza Access 4 southbound approach. The resolution was to make that movement right in-right out. When they conducted a review of this mitigation, it resulted in a Level Of Service B which was a marked improvement over the previous submission and it redistributed a number of the trips on that drive aisle to other intersections analyzed.

When the trips were redistributed, there was no decline in Level of Service on those intersections, so it was thought an appropriate mitigation. Whether it will be achieved through signage or actual physical barrier, something called a pork chop that would force traffic in one direction, that would require additional engineering and research.

Whether through signage or physical barrier or both, Staff felt mitigation could be achieved. In order to ensure that, staff recommends a development condition that applicant implements a traffic mitigation measure to address traffic impact at Plaza Access Number 4 to the satisfaction of the Director of Engineering and Construction. This gives staff and applicant flexibility in appropriately designing that mitigation measure.

In terms of other development conditions, Ms. Perry reported in a situation like this, staff looks for an assessment of impacts, how to mitigate them, and other standards that have been applied to drive-throughs in Falls Church. Under the staff recommendation, there are listed several proposed development conditions that are offered to the Planning Commission as recommendations to the BZA, which are on page 4 of the staff report.

The first two talk about hours of operation and number of staff at the branch. Those are standard that are included as part of development conditions to try and identify the scope and the extent of the use, to make sure the parking is not going to be taxed by the number of employees at that branch.

Numbers 3, 4 and 5 were derived from an assessment of impacts that were identified but that the applicant has agreed to implement. One is the mitigation measure for the traffic impact at Plaza Access 4. The other has to do with providing new street cans for refuse and recycling in the streetscape. The next one has to do with implementing low impact design elements.

The sixth staff recommendation comes from the Department of Environmental Services.

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The City engineer, in assessing the impact of this development, is requesting the developer install downstream of the project a hydrodynamic separator. That is missing from Recommendation Number 6 and a separate memo was provided from the City Engineer detailing his interest and what he assesses as an appropriate mitigation measure.

Based on this review, staff recommends that the Planning Commission recommend that the BZA approve the Special Use Permit with the conditions stated on Pages 4 and 5 of the staff report.

Ms. Perry added that Special Use Permits are traditionally approved for 1 to 2 years with the idea being as a Special Use Permit, impacts are anticipated that may not be completely captured in all the review and analysis that is done when considering these applications. A Special Use Permit has never not been reapproved. What it does it allows us to basically wait a year, watch how the impacts are mitigated, and if there are any concerns, instead of having to deal with those impacts in perpetuity, the application is revisited with the applicant to look for measures to see that the site is operating appropriately. It's one year after the Certificate of Occupancy is issued, so that is one year while the use has been implemented.

Chair Lawrence asked if the applicant wished to make a presentation.

Ms. Jenny Hornback with Walter Phillips, Incorporated, located in the City of Falls Church was the planner of the project and was also acting as applicant's agent. She introduced Dick Prosser with BB & T, Munsur Arabati (phonetic) with BB & T, Mark Henderson with Federal Realty Investment Trust, and Felice Brychta with Gorove/Slade Associates. They were all present to address any comments or questions.

Ms. Hornback related this meeting marked the end of a year and a half of cooperative efforts with the City's planning staff. Several ideas having been vetted through the planning and engineering department to try to come together with a solution that met all concerns, which she felt was reflected in the few development conditions that had come out of this as well as very few, if any, remaining issues.

Ms. Hornback thanked staff for coming together with a really nice project.

Overall, they agree with all of the development conditions, with a little bit of a debate around 6 or 7. Issue Number 7 had been debated on numerous Special Use Permits. She was glad to answer any questions from the commissioners.

Mr. Dick Prosser, vice president of real estate with BB & T, 6400 Arlington Boulevard, Falls Church, Virginia, 22042, wanted to echo Ms. Hornback's comments about staff, noting it was a long, tedious process but they had worked together to come up with a good plan.

His comments included the fact that he came over with the First Virginia merger and had been with First Virginia prior to that.

BB&T had operated a branch in Falls Plaza since 1992 along with a couple of other branches in Falls Church, and although not in the City limits, corporate headquarters of First Virginia had been there for many years. He thought they'd been a good corporate citizen and he looked forward to the expansion of services to be offered at Falls Plaza.

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Mr. Prosser related drive-throughs are sometimes in conflict with what a lot of municipalities are trying to create, pedestrian-oriented environments, and he had been involved in those environments in other municipalities. BB&T has operated a branch there since 1992 and they had been somewhat thwarted in the ability to grow because of competition from other branches and drive-throughs. When the opportunity came available with the former Chicken Out, they were excited about the prospect of adding a drive-through service. They looked forward with following the project through with the City of Falls Church and staff. He added that hopefully when revisited in a year, there will be very few issues to mitigate.

The Chair opened the item to the public. Hearing no response, the Chair closed the item to the public.

Ms. Teates noted that the Walter Phillips report talked about a minimum of 306 spaces were needed and this application proposes 314 and asked if they actually gained or lost any spots.

Ms. Perry remarked that this was part of a larger site plan for Falls Plaza and when that site plan was approved, there was an agreement between east and west that basically required this side of the site to have a minimum number of parking spaces. That statement confirms that they met the requirement that they're bound by under the previously approved site plan.

Ms. Hornback confirmed they're gaining two spaces on the west side, going from 312 to 314.

Ms. Teates understood the parking reduction was set at 569 when the site plan was done but anybody who has been in that shopping center knows the parking, especially on the west side is inadequate and it is a crazy shopping center to drive through. It's well under-parked for the usage it has currently.

Ms. Teates remarked that she saw they were going to allow ADA spaces that had to back in an area that close to Broad Street and was shocked that was actually allowable. She felt it did not seem to be an appropriate location for ADA spots and since this had been worked on for a year, was there no other location that could be found.

Ms. Perry replied the various iterations or the exercise of trying to locate those spots so they do meet the ADA requirement was probably something the applicant could speak more fully to. They did try to find alternatives but none could be identified. From the staff perspective, one of the reasons it raised concern was in consideration of the Special Use Permit there is currently not a requirement that would require them to move them. Technically under the regulations they can be there. It is not the ideal location.

Ms. Teates thought it was a major safety issue. It's already a dangerous area and she didn't think the flow in the diagram looked improved, but looked like it was even harder to get to that area.

Ms. Hockenberry also was concerned about the flow, particularly on the west end of the project and where it seems to be crossing purposes there. She understood there is the right in and right out but she thought it would be very confusing right where the proposed stamped concrete area was. She thought it was extremely dangerous and saw definite problem areas in the flow of that.



Ms. Hockenberry inquired if the parking spots were limited to the bank or shared with the rest of the stores in that area.

Ms. Perry related there are no other than the two ADA spaces and all the other spaces are shared within the parking center.

Ms. Rodgers' concern was with traffic flow. She knew how congested the area could be and didn't like the idea that there is no left turn from that entire shopping area unless you go down Birch Street and that was very limiting. It cuts off all of Gordon from anybody coming from this area. She thought it was a terribly convoluted traffic pattern and couldn't support it unless it was changed.

Ms. Rodgers said as far as the one year period for special permit, it read, If these conditions are not met the Special Use Permit shall be revoked. She noted Ms. Perry said one has never been revoked and she would like to see this get fixed before a permit was even thought to be given.

Mr. Meeks asked Mr. Prosser what the typical BB & T prototype was, as far as the size of the branch and number of drive-throughs.

Mr. Prosser replied currently they had 3000 square feet in line in the shopping center now. Historically over the years when a new branch is built it's about 4000 square feet with three drive-through lanes. The prototype had been just revised to bump it up to about 4200 or 4300 square feet with the same number of drive-throughs. This would not be typical. They probably had a half a dozen of these type branches through their footprint in Northern Virginia with a single drive-through lane, but generally it's a multiple drive-through lane operation.

Mr. Meeks noted at some point during the day maybe all three drive-through lanes were being used simultaneously which Mr. Prosser agreed with. Mr. Meeks said the staff report said they didn't think there would be a lot of stacking but in doing the math, three drive-throughs being used simultaneously, wouldn't there be more cars backed up into the access point and into the shopping center.

Mr. Prosser advised that the use of drive-throughs, the use of ATMs compared to ten years ago is down simply because people don't visit the branch as much as they did because they're using debit cards more and direct deposit to get cash. In the last 5 or 6 years, if you visited a three bay drive-through you're going to generally have 4 to 5 cars parked in the first lane, 2 to 4 cars parked in the second lane, and maybe 2 to 3 tops parked in the outward lane. Most people prefer to use the inner lane where you've got people to people contact. That is typical of every bank.

He envisioned not having a drive-through today that on peak times probably the most number of cars parked there at the tops would be five. If the drive-through is crowded, you would bypass the drive-through and go inside. The drive-through is simply to add another delivery method for the older person or person with children that does not want to park and get out of the car.

Mr. Meeks further noted there was another drive-through location in the City and asked what the peak times were there.

Mr. Prosser acknowledged there was a 2 lane drive-through and whatever he would say would be conjecture. Both were remote drive-throughs, camera operated with tube systems. He estimated the peak times would probably be Thursday evenings from 5 to 6:30, and Friday, maybe 4:30 to 5 to 7. It's been a while since he visited that

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branch but he didn't think he ever saw more than four cars at either lane stacked up there.

Mr. Meeks was interested in knowing how they were not going to fill the stacking lane, whether it's once a day or once a week.

Ms. Perry said the expectation of how many cars expected to stack if somebody was waiting to enter into the two ADA parking spaces, stacking for the drive-through met the minimum requirement of five spaces. Mr. Meeks said he understood it's the minimum requirement but he knows they'll exceed it once a day.

Ms. Perry had not done analysis to determine how often that would exceed the five spaces. Mr. Meeks also didn't understand why there was no analysis on that relative to the access off Route 7 where the gas station was and Gordon Road. It seemed to him the stacking lane went right into what was the busiest entrance into the shopping center, which was also where the handicapped spaces were.

Ms. Felice Brychta with Gorove/Slade and Associates, informed the commissioners a Traffic Impact Analysis was done for this site and there was a higher number of trips at the Birch Street intersection which goes back behind the shopping center. They looked at the actual intersections, the intersections along Broad Street, the intersection just to the west which was the intersection they were talking about, and also the Birch Street intersection.

Birch Street was looked at in terms of delays in Levels of Service. With the right in-right out intersection at Access 4, it met all acceptable Levels of Service except one location which had a delay of 59.5 seconds at Birch Street. At Birch and Route 7, the current daily trips are 99 outbound trips during the a.m., there are about 200 outbound trips during the p.m., and about 225 on Saturdays outbound at Birch. When Mr. Meeks asked if there was a traffic count further up Birch, Ms. Brychta said they just looked at the intersection of Birch and Broad.

Ms. Brychta provided exiting numbers on Route 7 at Plaza Access 4 and then also the drive-way just furthest to the west called Access 3.

Mr. Meeks said the numbers didn't seem right to him.

Ms. Brychta also related they looked at intersections along Haycock, most of the inbound and outbound trips are at these intersections because that's where the bank is located on the site. They based their numbers using trip generation rates from the Institute of Transportation Engineers.

Mr. Meeks was trying to understand the current rate of traffic more than the impact, and he thought 225 seemed low, particularly if there was a 59 second delay.

Ms. Brychta explained that is a signalized intersection and that was the reason the delay was so low. Typically at unsignalized intersections the delay would be high.

Mr. Meeks said maybe he had particularly bad luck because he had sat at that light more than once and anyone else who is a resident or shopped at that Giant has sat through that light more than one time.

Ms. Brychta explained 59.5 seconds is the average delay for a Saturday. For that same movement for a.m. and p.m. it was about 52.3 seconds for the a.m. peak hour and about 54.7 seconds, roughly the same for all peak hours that were studied at Birch Street.



Mr. Meeks did not understand the idea of giving a Special Use Permit that can be revoked but never has been revoked, particularly in a case where there were traffic mitigation problems from the outset. If there were intersection troubles at Gordon Road or with the gas station, would the drive-through permit be revoked?

Ms. Perry said the issue of being able to revoke at any time had to do with non-compliance with the development conditions specified. So if there is any violation, for example, if the street cans were not put in or if they exceeded the number of employees without having the Special Use Permit approved, that would be grounds for revoking it. Just because a site may not be functioning as the analysis indicated it would, would not be a reason to revoke the Special Use Permit.

The idea of giving the one year time period was to allow the business to establish itself and to experience that development. If the mitigations weren't working out as expected or if there was another impact, they could look at ways of mitigating that as part of the renewal process.

Chair Lawrence said the bottom line was if they find traffic was backing up horribly, if they implement and maintain it the way it's supposed to be, the fact that it creates a traffic problem is not a justification for revoking the Special Use Permit.

Ms. Perry agreed with that assessment and said that was why staff recommends typically having that one year observation period so they're not stuck with that impact in perpetuity. After one year, they get to re-evaluate impacts going on in that area.

Chair Lawrence asked if the traffic was not working, what would be done.

Ms. Perry explained in a by-right scenario there would be nothing to do. The opportunity here through the Special Use Permit process was to limit the use to one year so that the Special Use permit could be revisited. It's not to say it would have to be renewed. The Planning Commission or the BZA could choose not to renew the Special Use Permit when it comes back around.

Chair Lawrence noted it would come to the Planning Commission for another recommendation but it's not their decision. This was a recommendation to the BZA.

Ms. Perry related the issue with the one year is controversial because an applicant doesn't want to hear he may not get the Special Use Permit after making an initial investment after one year. That is a concern that has been expressed in other Special Use Permit processes. In the City's history working with applicants, it's never reached a point where there wasn't a way to make it work and make the renewal successful but it was not a guarantee. If the site does not function as anticipated, staff wouldn't be recommending if they didn't think the impact was reasonable, from a staff perspective though.

Ms. Hockenberry said that she didn't see the sense in building a permanent structure there, with changes to the traffic flow, only to say one year from now we're going to maybe say no.

Ms. Perry was not anticipating a problem in a year from now but was giving an example where they might want to revisit the development conditions. There were some concerns on the site flow. One of the analysis provided by the applicant was

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something called Auto Turn Analysis where they model out two types of vehicles, a passenger vehicle and a truck vehicle. They use conservative estimates on the size of the vehicles so the size of the vehicles that they use were larger than an average vehicle. It shows the car moving through the site in different movements and there were seven different movements evaluated. Out of the 7 movements, it showed 5 were acceptable, 2 were not desirable but could be solved by limiting the movement with some signage.

Ms. Perry noted while looking at the layout it may look like the site moves tight. Based on the Auto Turn Analysis that staff reviewed and in consultation with the traffic consultant, it was appropriate and it met the design requirements. So that all figured into part of the review process.

Mr. Meeks was less concerned with that than just the volume of traffic and people. He also found it interesting there wasn't more traffic mitigation that came out of the staff report and he thought if there was more traffic mitigation built into the Special Use, this would be a little bit easier to go through.

Ms. Perry replied that one of the reasons they had a recommendation for that area in terms of traffic mitigation, is they looked at the ten intersection movements that were evaluated in the TIA. They looked at existing conditions, looked at future conditions, with a build out year of 2010 without the development, and then if the development was constructed. It was only at that Route 7 and Gordon Route Plaza Access 4 southbound approach where there was a degrade in Level of Service with the proposed development.

She confirmed it was true there was degrading Level of Service predicted for 2010 without the development, and it was true there is an existing traffic crunch there and there is predicted to be one whether or not this goes in or not. They looked at what is the impact of this proposed development and also the fact a bank could go in there by right without demonstrating its impact on traffic, and looking at what does a drive-through bring that a non drive-through bank wouldn't bring in terms of traffic.

Those were some of the elements looked at in trying to figure out what was appropriate to mitigate and request the applicant to mitigate based on the application. It's that one approach that proved to be the area with the proposed development there was actually a change in Level of Service and the other ones did not show that.

Ms. Perry had a chart she made to help her track the changes in Level of Service across the intersections that show the existing conditions. If it changed without development, she noted that and if it changed with the proposed development in 2010, she noted that and highlighted the area. Ms. Perry distributed copies of the chart to the commissioners.

Ms. Hornback explained on the right turn, right in-right out only, currently that intersection may be de facto functioning as a full access movement. There actually is a solid double yellow line right there that does indicate you're not to make left turns out of that access point going eastbound on Route 7 from that access point.

Currently it is a right in-right out only. When you do make that left turn movement, the numbers on Saturday peaks, there is actually only 9 people that they counted that attempted that left turn movement currently under the existing conditions. Because you are crossing two westbound lanes, you're crossing the left



turn lane to make a left turn onto Gordon, then crossing two eastbound lanes, and that is also where the weave is if you're to be in the left turn lane into Birch. It is a left turn movement that probably shouldn't be going on today. At some point there were bollards which were removed. Striping was done to limit so people aren't making left turns into that access. That left turn lane has been eliminated with striping and there are solid double yellow lanes. That was why they felt that wasn't going to be a major change because currently that shouldn't be functioning as a right in-right out intersection.

Ms. Brychta concurred that the a.m. showed 2 people making that movement, p.m. were 4, and 9 people on Saturday, which were very low volumes.

Ms. Brychta informed the commissioners in response to various questions that the counts were done in 2007. The analysis and traffic study trip generation provided very conservative estimates of traffic. They looked at it again based on another calculation that you can do based on a drive-through bank use. The numbers used in the traffic study are considered to be conservative numbers so this is presenting a worse case. Even with the worst case, it still doesn't degrade the Level of Service.

Ms. Hornback submitted she found it interesting that when they took those 9 leftbound turns out of it and routed those through the other intersections, exits from the site because there are so many exits from the site, it didn't degrade Levels of Service to any of those.

As to the 547 patrons, Ms. Hornback noted BB & T doesn't track patrons, it tracks transactions. They estimated 2 and a half transactions per person. That is a general estimate. The patrons number in the staff report is probably high. One thing that was found because there are so many exits from the site, it is diluted. You're not talking about 547 patrons trying to make a left turn onto Broad Street right out of that intersection. They're going to go over to Birch or Haycock or out the back behind the loading and make a right onto Haycock, because there are so many access points into that site. That would also be throughout the entire day.

Chair Lawrence noted for people who go through the drive-through, they would be forced to go into the parking lot where it says, proposed, do not enter sign. There is a bump out so they can't do a left and get onto Broad Street again. They get pushed back through. Chair Lawrence said his main concern was it seemed like a tight squeeze, especially around the ADA spots.

In response to Chair Lawrence's inquiry of the placement of the ATM, Ms. Hornback replied there would only be a walkup ATM. Its location hasn't been resolved yet but it would probably be on the front facade on the Broad Street front. It would be exterior, 24 hour access, and it would not be a drive up ATM.

Mr. Wodiska asked for clarification on Level of Service, how that was defined, and how the measurements are determined.

Ms. Brychta explained there is a letter grade for each Level of Service, A through F. It's based on the seconds of delay you experience at the intersection. The numbers change slightly for signalized intersections versus unsignalized intersections. For signalized intersections Level of Service E would be considered 55.1 to 80 seconds of delay.

Mr. Wodiska expressed concern with Access 3 and 4, what the letter grades currently

are and what they think they'll be.

Ms. Perry drew attention to the chart she provided and said EC stood for existing conditions. For Number 3 or 13, Haycock Road at Route 7 eastbound through, the Level of Service was D. In the 2010 projected traffic conditions without the proposed development being implemented, they were already forecasting Level of Service D. There were no changes shown for the p.m. peak or the Saturday peak.

For Number 4 or 14, there were no changes across the Level of Service for the a.m. but with existing conditions, Level of Service D changes and degrades to an E in 2010 without the proposed development. It does not further degrade if the development is constructed.

Mr. Meeks said that didn't make any sense.

Ms. Perry related she had pulled data from a traffic study conducted by the applicant's consultant, reviewed by the City's traffic consultant, and it's a valid study of projected and existing traffic conditions.

Ms. Teates said even if the development made a difference, it might not be enough to change it a whole letter grade. She assumed as they go up the alphabet, things get much worse. She noted every single one, with or without development, showed a letter change or two letter changes. In general, all of this traffic is going to get worse at some level.

Ms. Perry told the commissioners she had asked those questions herself and of traffic engineers she had worked with. The TIA is verified by a consultant as having appropriate data for planners to use and report out. She has to rely on the analysis of the consultants to say this is a valid study and meets all the standards for traffic impact analysis. She pulls the data.

A former traffic consultant explained to Ms. Perry that typically one change in Level of Service is not always felt. You tend to feel it after two changes in Level of Service. While she didn't know if every traffic engineer would agree to that, but that was a guide provided to her at one time in looking at an assessment like this.

Ms. Teates wondered if anyone ever goes back and tests the traffic studies. For example, one was in 2005 and if anyone went back in 2009 and checked if it was accurate.

Ms. Hornback wished to clear up Mr. Meeks' concern that future modeling does assume there is a use in the pad building there now under the existing conditions because a by-right use can go in there.

In response to further comments and questions by the commissioners, Ms. Perry explained the chart she created only noted where there was a change and if there was no change it wasn't noted. The point of the chart was using it to show the impacts of this specific use and where it got worse.

Ms. Hockenberry asked Mark Henderson, development manager of Federal Realty, 1626 Jefferson Street, Rockville, Maryland, what he thought of the proposed bank drive-through and if he anticipated difficulties within the shopping center.

Mr. Henderson said they would normally look at a project exactly the way Walter Phillips had done by looking at traffic studies. BB&T has been in the shopping

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center and he thought it was an asset to them as well as to them. He felt the drive-through would provide a service to the community and he trusted that Walter Phillips had looked at the uses and did the best they could to look at circulation. He had read through the report as well as staff recommendations and his understanding is they've gone through iterations for a year and a half which is a considerable amount of time for this specific property and he relied on what they found.

Ms. Hockenberry commended Federal Realty for the high grade of businesses they brought to the shopping center. She asked if somebody is parked over on the Staples/CVS parking lot, could they walk across the street to the other businesses and stores without being towed.

Mr. Henderson, being the development manager with his focus on real estate, said he had spoken to the property manager and he understood there is an issue on towing. From speaking with her he understood there is a committee meeting on this and the property manager was participating in it.

Ms. Hockenberry stated if someone wants to go to and from either section, there was a big fear you would be towed. She thought it was something Federal Realty had to start dealing with along with other management people.

Mr. Henderson appreciated being a part of the community and while this wasn't a new issue, he didn't know the specifics of the details but the property manager did and she was trying to get into this committee that had been formed with multiple property managers.

Ms. Hockenberry suggested having a parking summit with all of the property managers and banks to get Falls Church to be a much more friendlier place with parking and she encouraged Federal Realty to become a leader and approach other people such as the Broaddale parking group.

Mr. Wodiska asked for an explanation how the bump out was not anticipated to affect the flow of someone existing the parking lot, because it looked to him you would make the turn and swing into the traffic flowing south.

Ms. Perry's understanding was there was no left turn; after you conduct your transaction, there is a stop sign there and a proposed "Do not enter" sign so you cannot make that left out.

Mr. Wodiska asked why traffic would want to move in that flow. Ms. Perry related the Auto Turn Analysis said if you did not restrict that movement it would cause an issue for a vehicle. It was one of the two intersections where they recommended putting a sign to limit that movement.

Mr. Wodiska said the result would be stacking them by the ADA spaces.

Chair Lawrence asked Mr. Prosser if he wanted the Planning Commission to take a vote or to wait until the first meeting in October and talk to staff and address their concerns.

Mr. Prosser said they had worked with staff through the issues and their goal was not to build something that wouldn't work. He didn't deny it was not a tight site but he thought the issues had been addressed and resolved to BB&Ts and staff's satisfaction and he welcomed the vote.

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Mr. Wodiska said he was pleased to see development occurring at this spot. The fact that the Chicken Out had been closed for numerous years had been a sore spot in what was otherwise a very thriving mall. He was very concerned with the traffic flow as it related to Route 7 and the ADA spaces. He believed it would have negative impacts contrary to what the data was suggesting, which he noted was out of character for him as he was a firm believer in data. He had a hard time comparing his own experience for the specific access points.

**MOTION:** Mr. Wodiska moved, and Ms. Hockenberry seconded, that the Planning Commission recommend that the Board of Zoning Appeals deny the Special Use Permit application U1490-09 for the BB&T drive-through bank for the following reasons:  
Concern over traffic flow as it relates to the ADA space location and Route 7 congestion.

**DISCUSSION:**

Ms. Teates' issues were the ADA spaces. Having seen Entrance Number 4 back up without a drive-through turn there, she felt it would continue to be a problem, especially if people coming through the drive-through wrapped around, it would be difficult to have a clear sight line to get cars in and out of there and would cause congestion.

She was also concerned that the drive-through allowed for extra turns that would be happening. When the Chicken Out was there, it did generate some traffic. There were people pulling in and out of the parking spots but there wasn't another traffic flow going on. Her primary issue was the ADA spots.

Chair Lawrence reminded the commissioners that since this was a motion to deny, a "yes" vote meant a vote to deny.

Upon roll call vote the motion to deny passed unanimously.

**C. Application 20090491, Variance, Colonial Garden Townhouse Development, to Permit a Deck in the Rear Yard of 315 North Maple Avenue.**

**Recommendation to the Board of Zoning Appeals.**

Ms. Perry informed the commissioners earlier today the Zoning Administrator located a variance previously approved for the subject property which changes the details of the application as presented in the staff report and the staff recommendation.

Ms. Perry noted after consultation with the City attorney, it's been confirmed that the planning commissioners may still consider the application as presented.

The variance application is before the Planning Commission as a recommendation for the Board of Zoning Appeals. The subject property, 315 North Maple Avenue, is zoned R-TH, Town House Residential District, and is located in the Columbia Gardens Development.

Applicant/owner of the subject property is requesting BZA approval of a variance to Section 38-28(b)(5) of the Code which allows a deck to project no greater than 6



feet into the minimum of a required yard. The minimum required yard for a property in the R-TH District is 40 feet and the subject property does not contain that 40 foot requirement.

Ms. Perry reported the variance that the Zoning Administrator located today was approved on October 6, 1965, which allowed the rear yard to be 35 feet. Therefore, because that yard was approved to be less than the minimum requirement, there is a by-right option for a 6 foot deck per the Code requirements, although a site plan amendment would still be required.

When the staff report was written, the recommendation was that the variance be approved with a condition that the deck project no greater than six feet from the house because that would be consistent with the Code requirement that permits decks. Since there is already a by-right option for that 6 feet, staff was recommending that the Planning Commission recommend that the variance application be denied since there is currently that by-right option for that six foot deck that staff was originally supporting.

Ms. Perry further clarified that staff is recommending denial of the variance. The variance was at the time the staff report was written necessary for any deck to be constructed because it didn't meet the minimum required rear yard of 40 feet. Whether it's one foot or 11 feet, they needed a variance. Based on that hardship, staff thought a 6 foot deck would at least be consistent with the Code requirements. Since they can do that by-right now, a variance is not needed to accomplish that same structure. The request is for 11 feet.

Mr. Frank Villamar, the applicant/property owner at 315 North Maple for the past 6 years and a resident and owner in the City of Falls Church for 9 years, thought he understood what Ms. Perry said was that he could build a 6 foot deck. He stated the 6 foot deck was sufficient for him but his concern was that 6 feet didn't allow him to put a table on the deck. He submitted one of the reasons for this deck addition was to add enjoyment to his property. His kitchen is at the second level and he wanted to extend dining out to the deck.

His other argument for the deck was he wanted to create an additional fire exit because a lady died on his property in 1998. He understood he had a by-right of 6 feet and could live with the 6 foot if he had to but he wanted to do 11 feet or a little bigger to accommodate a table so he and his family could sit out there.

Currently his property was looking at a row of townhouses at Garden Court where the decks were projecting much greater than ten feet. He felt that the addition of a deck would add value to his property and to the community.

The Chair opened the item up to the public.

Lynn McDermott, 311 North Maple Avenue, two doors down from Mr. Villamar, was present because she opposed the request for a variance. She understood that there is now a by-right of a 6 foot deck which she hadn't come prepared to address.

She also wanted to correct a statement in applicant's request for a variance wherein he referred to her experience of purchasing a refrigerator and it was stated it cost \$1000 to bring it through the window. She wanted to correct that and said the cost for moving the refrigerator as well as two other items totaled \$650.

She informed the commissioners she chose to live in a townhouse that did not have a

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deck or balcony and that was done intentionally. The application has been accompanied by four letters supporting it and while she certainly respected the right of people to express their views in support of this application, she wanted to draw attention to the fact that those individuals did not live in this row of townhouses.

She stated any change in circumstances would be detrimental to her and her privacy. In her view there was no hardship here and she asked the commissioners to oppose the request for a variance.

The Chair closed the item to the public.

Chair Lawrence called for comments or questions from the commissioners.

Ms. Teates said Ms. Cotellessa had previously spoken about other decks that had gotten individual variances over time. She asked if those different variances had different allowable widths and was that basically how some were more than ten feet.

Ms. Perry said there were a couple of issues. First, she apologized to the applicant. She had not realized applicant had not been contacted by Zoning about finding the variance but it was literally 4 o'clock this afternoon that the variance approval was finalized.

There were a couple situations going on with the site plan. One is that there wasn't a uniform yard width for the rear yard and there were several lots deficient in the 40 foot yard and did receive variances to bring their yard into compliance like the subject property. There were people that have more than the 40 feet. So the extension to the yard is only the minimum required yard. So if there is a 40 foot yard and the bare minimum, you can do is 6 feet. If you have a 49 foot yard, you can do 9 plus 6.

Ms. Perry thought that was one of the factors why there are some townhomes with larger decks than others. She could not guarantee that was how every single person got their deck. Not everyone realizes that a site plan amendment would be required for a deck. It was quite possible some were built without approvals. She didn't know that for a fact but knew in development that could happen.

Ms. Teates said in this case the back yard is 37 feet, and if their back yard was larger, they could have a larger deck. It was really a ratio to what the yard looked like.

Mr. Wodiska said he lives in a townhouse himself and was limited to a 6 foot deck. It was also a second story with a second story kitchen and so he knew exactly what was being talked about here.

Mr. Wodiska inquired if the 6 foot was limited to how far out the staircase could go as well, otherwise practically speaking it's a fire pole, not a staircase.

Ms. Perry said she needed to look at the Code related to uncovered steps and stairs. Mr. Wodiska said the picture showed a staircase on an 11 foot deck which made sense but on a 6 foot deck he wanted to know what the variance limits were.

Chair Lawrence said on a 6 foot it becomes a landing or a stoop where you come up and that's really where you stand to come in as opposed to being a functioning deck.



Ms. Perry, looking at the Code, said it speaks to a minimum yard. The greatest extension that could possibly be had was 6 feet. While it did reference uncovered stairs or fire escapes, that extension is only 4 feet 6 inches. So the extension of the deck at 6 feet, and this was Ms. Perry's reading of the Code, may require an interpretation as to how it had been applied in the past. The largest extension that that portion of the Code permits is 6 feet total. If it were just stairs coming out of the second floor and it was not a deck but uncovered stairs, it would only be allowed to encroach 4 feet 6 inches.

One of the challenges here was the Code at its age and when it was created did not have very clear provisions about what is now conventional deck construction. The challenge with the language currently is it's been the Zoning Administrator who has used what we have to apply a modern approach to home construction. Everybody wants a deck, especially in townhomes. That's why she caveated her read of it to say not that there hasn't been a different way the regulation has been applied with decks and a separate of stairs, but that was her read of it.

Chair Lawrence inquired how wide it could be. Ms. Perry said it would depend on whether it was an interior or exterior unit. Based on her reading right then of the provisions, she did not see where it said it needed to be set back from the lot line but it could go to the side. She further stated this was an interior townhome.

Chair Lawrence said in theory it might be able to go to the corner of the other houses.

Mr. Meeks noted the staff report said there is the variance of 6 feet and asked was there any particular reason it was 6 feet.

Ms. Perry explained the reason why staff was supporting a deck of 6 feet was that was consistent with any other property that met the Code requirement could build. At the time when they looked at this application it was unknown why there was a lot that wasn't meeting the minimum yard requirements and it was thought it was a situation that it was built in error and never brought in compliance with the variance. It's not as if the applicant imposes hardship on him or herself. And looking at the criteria for a variance, it's not something that would be expected to see prevalent throughout the R-TH District. So a 6 foot deck seemed reasonable because others that meet the minimum requirements could meet that and that is why staff supported 6 feet.

Mr. Villamar asked what his allowance was. initially he requested the information on how he could build the deck and was told he could build a deck that was 20 percent of his patio space which allowed the dimensions of 11 by 17. He brought it to the site amendment plan and he was told he couldn't build any deck. Now he's finding out it is a by-right 6 feet. He requested concrete information. He had spent resources for this application and wanted to know what he could build.

Mr. Meeks asked the applicant how he felt about the 6 feet. Mr. Villamar asked if he could do a small staircase because there were other staircases on that row of townhouses that he mentioned.

Chair Lawrence asked if they needed to specifically address the staircase. Mr. Meeks said as she read it, he would say it does not because you would have to say 6 feet plus the staircase.

There was general discussion among the commissioners on the staircase and if it was

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possible to fit one there.

Ms. Teates said it was clear to her based on what the Zoning Administrator found today was there is this 1965 variance that allowed them to have a 35 foot back yard. which meant he gets the 6 feet. Applicant doesn't have an extended yard like some of these other homes that would allow for a larger deck and there is no clear opinion on the staircase because Ms. Perry was reading from the Code ad hoc as they proceeded. She wasn't sure they could make any definitive statements about a staircase without the Zoning Administrator making his own interpretation. She felt all they could do today was they could follow through on Ms. Perry's recommendation to deny it because the standard variance allows a 6 foot deck and that's adequate, or they could allow 11 feet, but she didn't think a call could be made on the staircase without the Zoning Administrator giving his opinion.

Mr. Meeks agreed with Ms. Teates but he thought for clarity and to save the applicant further time dealing with the City, they should clarify what they would approve, not counting the staircase. So you get a 6 foot deck, won't count the staircase, but applicant still would have to go to the BZA and the Planning Commission would still have to approve the site plan.

Ms. Rodgers didn't think that was helpful. She thought they should just go with the original request of giving a variance of 11 feet and then they deal with the Zoning Appeals and getting their permits as to how to handle the staircase.

Ms. Hockenberry said this was more like a balcony. She asked if the property was 40 feet, could they have more than 6 feet?

Ms. Perry said 6 feet would be the maximum. If they had 41 feet, they could have the one foot and a 6 foot extension into the minimum required for a 7 foot deck. Any yard greater than 40 feet, 40 feet is the minimum yard but it is heavily regulated. Outside of that 40 feet, it's not as heavily regulated.

Ms. Hockenberry asked if Ms. Rodgers was suggesting they approve a variance for the 11 feet. Ms. Rodgers said the request was for a variance of 11 feet and staff has recommended denial because they feel they already have enough by right. She said what they should do is address the original variance request and vote it up or down.

Ms. Hockenberry realized that whole area was very complicated since it was the City's first townhouse development and there were things that have changed along the way.

Chair Lawrence said to put it in perspective, he didn't know the provenance of some of the decks there. They may have been built with permission or built long ago without permission. He would feel rather hypocritical to punish some who's actually going through the process properly and say, well, as a matter of fact since you asked the answer is no, but other people who didn't ask got to do it.

Ms. Teates personally had a problem with that since they don't know if things were done correctly or not correctly. She thought in the best possible world they shouldn't give out variances unless it's a real hardship. The Zoning Code is not adequate because it's being rewritten but it is the Zoning Code they had that is legally on record. She felt it should be denied because the 1965 variance allows for a 6 foot deck which would be adequate and the applicant said it's adequate. It's not what he wants but he could work with it. If the commissioners did a motion that approved 11 feet, she felt she probably should not be the person to



make the motion. She didn't believe giving out variances because maybe someone else got away with it.

Ms. Rodgers said all they were doing was making a recommendation to the BZA. Ms. Teates reiterated that she didn't feel comfortable recommending a variance just because other people may have gotten away with it in the past; they didn't know if they followed the Code or not. Ms. Rodgers said that wouldn't be her reason for recommending the variance.

MOTION: Ms. Rodgers moved, and Ms. Hockenberry seconded, that the Planning Commission recommend that the Board of Zoning Appeals approve Variance Application V1493-09 for 315 North Maple Street.

Ms. Rodgers inquired if she needed to include dimensions but Ms. Perry said the application sets forth dimensions and if they're going to recommend approval as a whole, that would be sufficient.

Discussion:

Mr. Wodiska agreed with Ms. Teates that the Code was in place. He was sympathetic as possibly could be based on his own experience and that the Zoning Code was not correctly written here. But it was the Code and exceptions to the variances are not given out without hardship. He agreed with Ms. Teates on this as the motion comes before them but not because he didn't think it's reasonable. Mr. Wodiska noted the work the applicant put into this application was really tremendous and it was the right way to approach putting on this kind of a addition. He would like to see this addressed in the zoning rewrite.

Ms. Teates wanted to reiterate she agreed with Mr. Wodiska and hoped the issue is dealt with in the Code and becomes clarified and modernized to the type of development right now. She appreciated all the work done on the application and agreed it was not fair to go to the City several times and hear different answers. But as with a lot of things, there are a lot of variances over a lot of years and it's a difficult Code to deal with. With the rewrite, she hoped it would bring about a better experience for all citizens.

Chair Lawrence said as far as the zoning rewrite, hopefully it would be fixed within the next year. He was torn because a 6 foot deck was too small, especially with a staircase. But as with other variances, how you get one really was due to a hardship. What he would say to the BZA is he'll approve and go with the 6 foot but didn't think there should be a staircase because then it was a staircase and not a deck, or a fire escape to a certain extent.

Chair Lawrence clarified that the variance application is for an 11 foot deck; if they approve the variance application, it's an 11 foot deck. A "yes" vote is for an 11 foot deck and "no" vote is for 6 foot. He had a right to do a 6 foot deck whatever the vote was.

Upon role call vote, the motion failed. (Ms. Hockenberry, Mr. Meeks, and Ms. Rodgers voted "yes"; Chair Lawrence, Ms. Teates and Mr. Wodiska voted "no.")

Chair Lawrence explained to the applicant a split vote meant the motion was denied. So in effect the motion for the Planning Commission to recommend 11 feet was defeated but regardless of that, the applicant still had the right to build a 6

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foot deck. The Planning Commission was making a recommendation. The Board of Zoning Appeals will meet on September 17th and they would make the decision. Not about the 6 foot deck because they can't change the fact that applicant had the right to build a 6 foot deck, but it was going to the BZA to try to get an 11 foot deck.

Chair Lawrence inquired of Ms. Perry if regardless of what the BZA did, if it would come back to the Planning Commission on the 21st; that is, if he had the right for the 6 foot, would it need to come back. Ms. Perry's understanding was it would be able to be done administratively by Ms. Cotellessa, but she has the right to bring it before the Planning Commission. Chair Lawrence asked if it was 11 foot would it come back to the Planning Commission; Ms. Perry believed it would. Either way it has to be documented as a site plan amendment because it's not a feature currently shown.

It's possible it could be done administratively since it's not associated with any previous request or permission.

**D. Application 20090474, Subdivision, 400 Block of Park Avenue, (RPC #51-114-0009), to Reconfigure two lots (7 & 8) into two lots (7A & 8 A) Preliminary and Final Approval**

Ms. Perry reported on the application to subdivide the 400 block of Park Avenue. Ms. Perry reported that proposed subdivision would resubdivide two existing undeveloped lots into two new reconfigured lots. Proposed lot 7 A would be 7,516 square feet, and lot 8 A would be 7,650 square feet.

The subject properties are zoned T-1 which allows a range of uses from lower density one family dwellings to commercial buildings such as professional offices. The proposed new lots would have one lot fronting on Park Avenue, proposed lot 7 A, and the other lot would be at the corner of Park Avenue and North Virginia Avenue, proposed lot 8 A, which would have the opportunity upon development to face either North Virginia Avenue or Park Avenue.

Staff reviewed the proposed plat and the City engineer had comments that could be completed by the applicant and then approved by staff administratively. After staff was able to approve those changes, they would bring the plats to the Planning Commission Chair for signature to finalize the action.

Staff recommends approval of the Subdivision Application 20090474, contingent upon administrative staff approval of the final plat.

Chair Lawrence called for comments or questions.

Ms. Rodgers asked if this was a by-right subdivision which Ms. Perry confirmed.

Ms. Hockenberry noted this was a piece of property that had been of concern for a long while. Reading from the Comprehensive Plan, on page 61, Future Land Use Change Number 6 in Figure 414, which is this property, is associated with a small area of land that lies directly across from City Hall/Cherry Hill complex on Park Avenue. In the 1997 Comp Plan it was designated as transitional on the future land use map, and yet the City would consider small scale retail uses appropriate for the location. For this reason the designation for the area has been modified to business.

Ms. Hockenberry said they keep hearing this is transitional and she realized on the land use map it's marked transitional. And on 414 it does say business and the



change from transitional.

Ms. Perry said based on the review of the staff report, the Comprehensive Plan designated the area for mixed use and the zoning transitional. She didn't have a copy of the Comprehensive Plan with her.

Ms. Hockenberry said it was confusing that the land use map and it's right outside of official design area. On the official zoning map she thought it was marked Transitional 1 on there. There is a conflict between the land use map and the recommendations in the Comp Plan.

Ms. Perry said in terms of the subdivision though, provided that an application meets all the subdivision requirements it was pretty much an administrative act for approval. It comes down to do they meet the Code requirements for subdividing the area, because they're not talking about the use of a lot but really a reconfiguration of a land area.

Ms. Hockenberry added they were reconfiguring for residential.

Ms. Perry said the setback shown on the plat would be consistent with single family development.

Ms. Teates asked if there was a possibility it had been changed and did not make it on the map and if it could be checked on.

Ms. Perry said they could definitely check on it. Based on the research provided by staff, their finding was the area was designated as mixed use and she didn't have information that coordinated with what Ms. Hockenberry was referencing and she would have to double check on all of that.

Mr. Reid Dudley, with Runyon Dudley Associates, was the civil engineer for the project and was acting as the owners' agent. The application they had was for a subdivision, what he said was more of a boundary line adjustment. There are two lots, and they're reconfiguring the lot line between. Setbacks were shown as required by the Code and those used were for the setbacks of the zone that exists. Mr. Dudley's understanding was this provided the most flexibility in the future for development but at this point in time the client had not asked to proceed with any final engineering drawings for any specific application.

The few administrative issues being worked out with engineering, one has to do with the City's new bench mark systems which would be tied into and could be done fairly quickly even though the system was not up yet. The other shows a request for some pavement widening shown on one sheet but not on all three sheets.

The Chair opened the item to the public. Hearing no response, the item was closed to the public.

Ms. Hockenberry asked if it was one property now or if it was two lots and they were reconfiguring the property lines. Ms. Perry said it was two lots oriented towards North Virginia and they would be oriented toward Park Avenue but the corner lot could be oriented either way.

Chair Lawrence noted normally this would be an administrative action but because of the Code it had to come to the Planning Commission. Mr. Meeks understood this was an administrative act but there was some question in his mind based on the Comp plan and based on what is on the map. He asked for clarification on when something

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becomes an administrative act.

Ms. Perry explained the Comprehensive Plan first and foremost is a guide. It is the City's vision. Zoning gives a landowner development rights. If the zoning is consistent with a use being proposed, they have the right to develop that. Comprehensive zone compliance is looked for in rezonings because they want the new zone to facilitate development that is consistent with the vision. In a subdivision, the use isn't at issue. It's whether or not the lot and the resubdivision of the land is meeting the requirements in the Code for being resubdivided.

Chair Lawrence asked about Ms. Hockenberry's inquiries as to the confusion about where this land falls and how the Comp plan ties into it. Ms. Perry said that was not her understanding of the read of the Comprehensive Plan. She didn't have it before her but Comprehensive Plan compliance is not one of the requirements for resubdividing land and it is possible they could implement elements of the Comprehensive Plan under the existing zone. So resubdividing the lots was not going to impact that. They didn't know what the use of the property was going to be.

Ms. Hockenberry said they did because they were talking primarily about 7 A and 8 A and that means residential. She remarked this was a small lot to begin with and even with that, if you go into the Code it would take a greater amount of square footage to put a commercial building on it because you need approximately 20,000 square feet.

Ms. Perry noted for all other uses besides single family residential, there is a 40 percent lot coverage limitation on a property zoned T 1. So limitations in development are reached in different ways. In single family or two family dwellings, it's predominantly through setback with a smaller limitation on lot coverage. All other uses like commercial uses that would be permitted under the T 1 District, the largest limitation is the 40 percent lot coverage.

Ms. Hockenberry said she had been on the Open Space Committee also and she knew it was definitely looked at. There was also future possibility of consolidation with other older buildings down on Virginia Avenue.

Ms. Hockenberry emphasized the Comp Plan had a vision and the City had been criticized in the past being without a vision. In the past all it's been used for was political campaign signs and beer trucks. Being so close to City Hall and to what is considered the hub of Falls Church, she hated to see it go residential. She submitted once it goes residential, it will never be gotten back.

If there was residential put there, the tree ordinance would require an enormous amount of restructuring or replacement of canopy cover that would be so extensive she didn't know how they could find a place in the whole City to put that many trees, which she saw as a future difficulty with developing these lots.

Chair Lawrence asked if Ms. Hockenberry needed more time to see how this was fit into the Comp Plan and the Zoning, which Ms. Hockenberry affirmed.

Ms. Rodgers said it had always been her understanding if you're asking to redraw the property line or you're dealing with a by-right subdivision, that it's an automatic approval. She noticed on the sample motions one of the options was to deny the application. She asked if it was denied, then what were the applicant's options.



Ms. Perry said the denial would require reasons and it would likely be given the subdivision regulations that the application was somehow deficient and the deficiencies could be fixed and the plan resubmitted. A reason would have to be along the line of a deficiency in the application where it's not meeting a Code requirement.

Mr. Meeks noted they were not being asked about the use but was uncomfortable, not with the use per se but literally it did not seem to him that this T 1 zone contemplated an entire residential two single family houses use. He thought it was a little bit unprecedented that you would take a pure T 1 which has been interpreted as a mixed use zone, and say it's going to be two single family houses. He thought the confusion was a reason for continuance and Ms. Hockenberry agreed with him.

Ms. Perry said if that was the decision, she would need specific guidance on what information the commissioners were requesting to consider the application on a different date.

Ms. Teates was curious that the lots were being reconfigured to be R 1 B because she thought the neighborhood was mostly R 1 As. She was surprised that T 1 was so open to interpretation. She thought the whole point was that transitional was to transition to commercial or mixed use. Transitional is all along the commercial corridors.

Ms. Perry said some of it does face residential neighborhoods. In the Transition Use District, T-1, principal uses permitted by right included one family dwellings as regulated in the R 1 B district; two family dwellings as regulated in R 1 B, and townhouses, and those are the residential uses permitted.

Ms. Teates mentioned it curious it didn't say R 1 A. She didn't feel there was any real legitimate reason to continue this unless there was an action made on the Comp Plan in the past and they were not aware of that, to change that from T 1 to business. She also was concerned because of the evening's earlier 1965 newly found variance, and she didn't want to reconfigure the lots to make them open for residential and find out they acted on the Comp Plan and change it to business.

Ms. Teates also remarked they all knew what the use proposed was because it was on the signage currently on the lot. Ms. Rodgers said the information was on the web site also.

Ms. Perry said you can't deny the subdivision because of the Comprehensive Plan's vision. Ms. Teates main issue was that what Ms. Hockenberry read, the intent was to have that lot changed to business at some point. Ms. Hockenberry said it was on the chart and on the written part also.

Ms. Teates also remarked that that it was a recommendation and a lot of recommendations in the Comp Plan were followed through with. Ms. Rodgers replied that this wouldn't have been followed through because the owner of the lot would have objected to that change.

Ms. Perry didn't know the history of the lot but did know that the subdivision requirements, absent a few that had to be approved per the City engineer which was being recommended to be administratively approved by staff, were being met. The Comp Plan issues would be critical in looking at a rezoning or something of that nature, talking about specific uses. But there is no requirement for a use to be shown at the time of subdivision. The only reason setbacks are there was because



the subdivision requirements require showing some setbacks and the only place where you have setbacks are with a single family development.

Ms. Teates appreciated what Ms. Perry was saying and that this was about the subdivision of lot and not the use. She just wondered what if a change had been made and no one remembered. Based on what the staff report said, she didn't think they had any clear reasons to deny or continue this. The only thing issue she had was the Comp Plan had suggested it be changed to business or recommended it.

Ms. Teates related the struggle for all of them from a planning perspective was this is the wrong lot to place residential. This is a better lot to be combined with the other two lots on Virginia at a future time to put in something more appropriate with the Plan for the City. It was very difficult to move forward with the Comp Plan and to continue to try to plan the future of the City and have things like this happen, lose control of land that really should be kept for another use.

Ms. Hockenberry added they were also creating two lots that were bare minimum of R 1 B, 7500 square feet.

Chair Lawrence thought Ms. Teates' concerns would be a justified reason for a continuance. He understood there is a lot of emotion attached to the land but it seemed like a reasonable action.

Ms. Hockenberry called for clarification on that because it was in black and white and whether it was acted on. She remembered a lot of things being brought to them Council-wise and didn't remember that particular part but she thought this needed to be tracked down to see what happened with that recommendation.

Chair Lawrence noted Ms. Cotellessa would be at the September 21st meeting and Ms. Hockenberry expressed preference that the head of the Planning Department look into this.

Mr. Dudley asked for clarification because there had been a lot of talk about zoning and residential. He said applicant was not rezoning and application shows only the T 1 Zone on the application. The configuration of the property was within those standards. There is a small piece of dedication that they were getting for the curb return on the intersection. He was not sure he understood the connect between the Comprehensive Plan which has to do with the zoning aspects of it and the subdivision aspect they were asking for today.

Ms. Teates explained her concern was when the Comprehensive Plan was written there was a recommendation that the zoning for the two lots combined be changed. They were concerned that that recommendation, if it was followed through, might not have been found when staff was researching those two lots because they may not have realized there was a recommendation in the Comp Plan.

Mr. Dudley said that still did not change the zoning. Ms. Teates said it would if the recommendation was followed through with, the zoning would have changed.

Mr. Dudley did not follow that connect but asked if there could be a motion conditioned upon the answer to that question so they didn't have to come back again.

Ms. Perry submitted it was the purview of the Planning Commission to do something like that. She also said if the subdivision was approved, the applicant had the right to develop the property under all applicable codes. Mr. Meeks asked if under

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approval anything else becomes staff administrative review.

Ms. Perry drew attention to Attachment 3, which were notes from the City engineer indicating there were a few administrative Code requirements. One has to do with relating the Deed North arrow to NGS, a Code requirement, and the second one was they needed to show a dedication of land sufficient to contain a sidewalk and utility strip, total distance of not less than 6 feet. That was followed up with this engineer in an e-mail on the reverse of that indicating 1 and 3 were the requirements but 2 and 4 were post-subdivision items that could be accomplished during construction or future development.

Ms. Hockenberry asked Mr. Dudley what would happen if it was found out zoning was changed and the matter was approved.

Mr. Dudley replied it wouldn't make any difference to the application. They would still want to see the configuration of the lot in its proposed condition and go through with the process. He couldn't imagine it wouldn't change a whole lot of the aspects of buying a piece of property and not knowing the zone.

Ms. Perry related the Zoning Administrator reviews the application to verify the information so it's not that attention hadn't been paid to the zoning.

Ms. Perry said if the zone was different, there would have to be changes made to the plats to note the new zoning district but the Business Districts are less restrictive in terms of lot coverage and minimum yard requirements.

Mr. Meeks thought it was unprecedented in his experience in the real estate business that an applicant was actually arguing that they didn't want the property upzoned.

Mr. Dudley said he was not hearing anything from the applicant or the application about the zoning at all.

**MOTION:** Mr. Meeks moved, and Ms. Rodgers seconded, that the Planning Commission give preliminary and final approval of Subdivision Application Number 20090474 subject to staff administrative review and confirmation that all required items that have been attained and that such plat be brought to the Chair of the Planning Commission for signature; and the Zoning Administrator confirm the zoning and it is, in fact, T-1.

Ms. Teates noted while this doesn't happen very often, it happened earlier today. This is something backed up by an actual recommendation from the Planning Commission at the time when they put together the last Comp Plan that that zoning change be made. If the Zoning Administrator wasn't aware the recommendation was made, he may not have looked back that far or may not have specifically looked for something like this.

Ms. Teates asked Ms. Perry to convey to the Zoning Administrator that the reason they were asking this is that the language and the exhibit in the Comp Plan suggested that there was a recommendation that the zoning be changed and they wanted to make sure the recommendation was not followed through on.

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Mr. Wodiska said everyone had covered the points he wanted to say. He thought from a Planning Commission standpoint the motion was a correct one and the way they needed to vote. If this land is used as residential, it would be a real shame. He didn't think it's consistent with what the vision of the City is in the Comp Plan, regardless of the actual legal text. Similar to the last vote taken, they need to follow the rules and what the zoning code says. For that reason he was going to support the motion but he thought it was a poor use of land in the City.

Ms. Hockenberry and Ms. Rodgers agreed with Mr. Wodiska's comments.

Mr. Meeks said he had been skeptical in talking about the Comp Plan. He thought this was not the highest and best use of the land. He thought they did a pretty good job the last time they did a Comp Plan, but probably a bad job with the execution and follow through. His sense was they were waiting for the zoning code rewrite and everyone wanted to get rid of T 1 and hopefully this was sort of the last bad experience they would have with this and he wished it was different.

Upon roll call vote the motion passed unanimously.

9. OTHER BUSINESS: None.

10. MINUTES FOR APPROVAL - AUGUST 3, 2009

Ms. Teates moved, and Ms. Hockenberry seconded, to approve the minutes as amended.

Upon voice vote, the motion passed unanimously.

11. ADJOURNMENT:

Ms. Teates made a motion, and Mr. Wodiska seconded, to adjourn at 10:31 p.m.

Respectfully Submitted,                      Noted and Approved:

Ann Hieber  
Recording Secretary

Suzanne Cotellessa, AICP  
Planning Director

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